

C. DUKES SCOTT
EXECUTIVE DIRECTOR

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DAN E ARNETT
CHIEF OF STAFF

May 25, 2005

VIA HAND DELIVERY

Mr. Charles L.A. Terreni
Chief Clerk/Administrator
South Carolina Public Service Commission
101 Executive Center Dr., Suite 100
Columbia, SC 29210

Re: Application of Lake Wylie Community Utilities, Inc. for Adjustment of
Rates and Charges for Water and Sewer Services
Docket No. 2004-353-W/S

Dear Mr. Terreni:

Enclosed please find for filing the original and twelve (12) copies of **The Office of Regulatory Staff's Proposed Order** in the above-referenced docket. Please date stamp the extra copy enclosed and return it to me via our delivery person.

Please let me know if you have any questions.

Sincerely,

Benjamin P. Mustian

BPM/rng
Enclosures

cc: John J. Pringle, Esquire
Mr. Wallace G. Martin

SO Public Service Commission
2005 MAY 25 PM 4:24
FBI

BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2004-353-W/S

SC PUBLIC
UTILITY
COMMISSION
2005 MAY 25 PM 4:24
PR-17-0

IN RE: Application of Lake Wylie)
Community Utilities, Inc.,)
For Adjustment of Rates)
And Changes for Water)
And Sewer Services)
_____)

CERTIFICATE OF SERVICE

This is to certify that I, Rena Grant, an employee with the Office of Regulatory Staff, have this date served one (1) copy of the **OFFICE OF REGULATORY STAFF'S PROPOSED ORDER** in the above-referenced matter to the person(s) named below by causing said copy to be deposited in the United States Postal Service, first class postage prepaid and affixed thereto, and addressed as shown below:

John J. Pringle, Jr., Esquire
Ellis, Lawhorne & Sims, PA
Post Office Box 2285
Columbia, SC 29202

Mr. Wallace G. Martin
1051 Sentinal Oaks
Lake Wylie, SC 29710



Rena Grant

May 25, 2005
Columbia, South Carolina

C. DUKES SCOTT
EXECUTIVE DIRECTOR

P.O. Box 11263
Columbia, S.C. 29211



Phone: (803) 737-0800
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DAN F. ARNETT
CHIEF OF STAFF

May 25, 2005

VIA U.S. MAIL AND ELECTRONIC MAIL

John J. Pringle, Jr., Esquire
Ellis, Lawhorne & Sims, PA
Post Office Box 2285
Columbia, SC 29202

Re: Application of Lake Wylie Community Utilities, Inc. for Adjustment of
Rates and Charges for Water and Sewer Services
PSC Docket No. 2004-353-W/S

Dear Jack:

Please find enclosed and served on you one copy of the Office of Regulatory Staff's Proposed Order the above captioned matter. Please let me know if you have any questions.

Sincerely,

Benjamin P. Mustian

BPM/rng
Enclosures
cc: Charles L.A. Terreni

C. DUKES SCOTT
EXECUTIVE DIRECTOR

P.O. Box 11263
Columbia, S.C. 29211



Phone: (803) 737-0800
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DAN F. ARNETT
CHIEF OF STAFF

May 25, 2005

VIA U.S. MAIL

Mr. Wallace G. Martin
1051 Sentinal Oaks
Lake Wylie, SC 29710

Re: Application of Lake Wylie Community Utilities, Inc. for Adjustment of
Rates and Charges for Water and Sewer Services

PSC Docket No. 2004-353-W/S

Dear Mr. Martin:

Please find enclosed and served on you one copy of the Office of Regulatory Staff's Proposed Order the above captioned matter. Please let me know if you have any questions.

Sincerely,

Benjamin P. Mustian

BPM/rng
Enclosures
cc: Charles L.A. Terreni

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COPIES
OF
DOCKET NO. 2004-353-W/S
ORDER NO. 2005-
JUNE 10 2 24

BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2004-353-W/S – ORDER NO. 2005-_____

JUNE _____, 2005

IN RE: Application of Lake Wylie)	OFFICE OF REGULATORY STAFF'S
Community Utilities, Inc.,)	PROPOSED ORDER ON
For Adjustment of Rates)	APPLICATION FOR
And Changes for Water)	RATES AND CHARGES
And Sewer Services)	

INTRODUCTION

This matter comes before the Public Service Commission of South Carolina (“the Commission”) on an application for increases in water and wastewater rates and charges filed by Lake Wylie Community Utilities (“LWCU”). LWCU’s application was accepted by the Commission pursuant to S.C. Code Ann. § 58-5-210 *et. seq.* and 26 S.C. Regs. 103-512.4 and 103-712.4. LWCU’s application was filed on December 7, 2004.

By correspondence, the Commission instructed LWCU to publish a prepared Notice of Filing, one time, in a newspaper of general circulation in the areas affected by LWCU’s application. The Notice of Filing indicated the nature of the application and advised all interested persons desiring to participate in the scheduled proceedings of the manner and time in which to file appropriate pleadings for inclusion in the proceedings. In the same correspondence, the Commission also instructed LWCU to notify directly, by U.S. Mail, each customer affected by the applications by mailing each customer a copy of the Notice of Filing. By letter dated

March 1, 2005, LWCU furnished the Commission with an Affidavit of Publication demonstrating that the Notice of Filing had been duly published and a letter in which LWCU certified compliance with the instruction of the Commission to mail a copy of the Notice of Filing to all customers affected by the applications. Mr. Wallace G. Martin filed a petition to intervene with the Commission.

The Office of Regulatory Staff made on-site investigations of LWCU's facilities, audited LWCU's books and records, and gathered other detailed information concerning LWCU's operations.

On April 12, 2005, a public night hearing was held in Rock Hill, South Carolina in the Anne Springs Close Library on the campus of York Technical College. All Commissioners were present at the night hearing. Also present at the hearing were customers of LWCU, who expressed opinions regarding LWCU's Application.

On April 27, 2005 at 10:30 a.m., a public hearing concerning the matters asserted in LWCU's application was held in the Commission's hearing room located at Synergy Business Park, 101 Executive Center Drive – Saluda Building, Columbia, SC. The full Commission, with Chairman Randy Mitchell presiding, heard the matter of Lake Wylie's application. John J. Pringle, Jr., Esquire represented LWCU. Ben Mustian, Esquire, and Shannon Bowyer Hudson, Esquire represented the Office of Regulatory Staff. Wallace G. Martin appeared *pro se* in this proceeding. F. David Butler, Esquire served as legal counsel to the Commission.

LWCU presented the testimony of John C. Malpeli, Owner of LWCU, and James Yokum, Jr., Accountant for LWCU. The Office of Regulatory Staff presented the testimony of Dawn Hipp, Project Specialist for the Office of Regulatory Staff Water and Wastewater Department, and Roy Barnette, Office of Regulatory Staff Auditor. At the hearing, Mr. Martin

elected to waive his rights as Intervenor and testified before the Commission as a Protestant. Mr. Doug Zapparados also testified before the Commission as a Protestant.

BACKGROUND AND PROCEDURAL MATTERS

LWCU is a privately owned company operating a water system and a wastewater collection and treatment system in York County. At the time of its Application, LWCU provided water and wastewater service to approximately two hundred seventy (270) residential customers and one (1) commercial customer, Lake Wylie Mobile Home Park. Mr. Malpeli is part owner of Lake Wylie Mobile Home Park as well as LWCU. LWCU's present rate schedule was approved by the Commission in Order Number 82-455 dated June 29, 1982 (Docket Number 82-66-W/S).

FINDINGS OF FACT AND EVIDENCE SUPPORTING FINDINGS OF FACT

After thorough consideration of the entire record in the LWCU hearing, including the testimony and all exhibits, and the applicable law, the Commission makes the following findings of fact and conclusions of law with respect to LWCU:

1. LWCU is a privately owned company operating a water system and a wastewater collection and treatment system in York County and is subject to the jurisdiction of the Commission pursuant to S.C. Code Ann. §58-5-10 et seq.

The evidence supporting this finding is contained in the application filed by LWCU, in the testimony of LWCU witness John C. Malpeli, and in prior Commission Orders in the docket files of the Commission, of which the Commission takes judicial notice. By filing its

application, LWCU admits that it is a public utility within the meaning of S.C. Code Ann. § 58-5-10 and submits itself to the jurisdiction of the Commission.

2. The appropriate test year period for purposes of this proceeding is the twelve-month period ending December 31, 2003.

LWCU chose to file its application on the twelve months ending December 31, 2003. Accordingly, LWCU chose the test year ending December 31, 2003. Based on LWCU's proposed test year, ORS utilized the same test period for its accounting and pro forma adjustments. A fundamental principle of the ratemaking process is the establishment of a historical test year with the basis for calculating a utility's operating margin and, consequently, the validity of the utility's requested rate increase. The test year is established to provide the basis for making the most accurate forecast of the utility's rate base, reserves, and expenses in the near future when the prescribed rates are in effect. *Porter v. South Carolina Public Service Commission*, 328 S.C. 222, 493 S.E.2d 92 (1997), citing *Hamm v. S.C. Pub. Serv. Comm'n*, 309 S.C. 282, 422 S.E. 2d 110 (1992). While the Commission considers a utility's proposed rate increase based upon occurrences within the test year, the Commission will also consider adjustments for any known and measurable out-of-test year changes in expenses, revenues, and investments, and will also consider adjustments for any unusual situations which occurred in the test year. Where an unusual situation exists which shows that the test year figures are atypical, the Commission should adjust the test year data. See *Southern Bell v. The Public Service Commission*, 270 S.C. 590, 244 S.E. 2d 278 (1978); see also, *Parker V. South Carolina Public Service Commission*, 280 S.C. 310, 313 S.E.2d 290 (1984), citing *City of Pittsburgh v. Pennsylvania Public Utility Commission*, 187 P.A. Super. 341, 144 A.2d 648 (1958); *Southern Bell v. The Public Service Commission*, 270 S.C. 590, 244 S.E.2d 278 (1978). Based on the

information available to the Commission, the Commission is of the opinion, and therefore concludes, that the test year ending December 31, 2003 is appropriate for the purposes of this rate request.

3. The Commission will use operating margin as a guide in determining the lawfulness of LWCU's proposed rates and for the fixing of just and reasonable rates.

In its application, LWCU does not specify or propose a particular rate setting methodology. "The Public Service Commission has wide latitude to determine an appropriate rate-setting methodology." *Heater of Seabrook v. Public Service Commission of South Carolina*, 324 S.C. 56, 64, 478 S.E.2d 826, 830 (1996). ORS, in support of its position and recommendations in this case, presented in its exhibits and testimonies information regarding the operating margins for per books test year, test year as adjusted, and LWCU's proposed increase. Hearing Exhibit No.7, P. i (Synopsis) and Audit Exhibits A, A/W and A/S. ORS also presented various alternative operating margins and associated revenue requirements for those operating margins. Hearing Exhibit 6, Exhibit DMH-8. LWCU neither supplied any operating margin information in its application nor supplied sufficient information on which rates could be set using rate of return on rate base methodology. Because the only information available relates to operating margin methodology, the Commission finds that operating margin is the appropriate rate-setting methodology for use in this case.

4. The appropriate operating revenues of LWCU during the test year under present rates and after accounting and pro forma adjustments are \$34,120 for water service and \$34,120 for wastewater service, for a combined operating revenue of \$68,240.

LWCU's application shows per book test year total operating revenues of \$38,394 for water service and \$34,120 for wastewater service for a combined operating revenue of \$72,514. LWCU Application, Exhibit B-2.

ORS's proposed adjustment (ORS Adjustment #1A) results in a decrease to per book operating revenues for water service of (\$4,274). ORS began with the per book test year operating revenues of \$38,394 for water service and \$34,120 for wastewater service. ORS proposed no adjustments to the water or the wastewater revenues for the test year. ORS Witness Barnette Direct Testimony, P.6-7; Hearing Exhibit No. 7, Audit Exhibit A-1, P. 8. However, ORS does propose an adjustment to water service per book operating revenues to remove charges of \$4,274 which reflects testing charges imposed by the Department of Health and Environmental Control. LWCU Application, Exhibit B-2. S.C. Code Ann. §44-55-120(E) states "A water system may increase water rates to each service connection by an amount necessary to recover the cost of the safe drinking water fee without seeking approval of the Public Service Commission." As these charges are billed by LWCU to its customers and then passed through to DHEC, and because the Commission does not have the ability to approve these rates, ORS did not allow them to be included as revenue.

We find the adjustments proposed by ORS to be reasonable and adopt ORS's adjustments. The effect of the ORS adjustments annualizes the test year revenues and, as stated by ORS Witness Barnette, were justified and verified by his audit. Therefore, we find the appropriate operating revenues for the test year after accounting and pro forma adjustments to be \$34,120 for water service and \$34,120 for wastewater service for a combined operating revenue of \$68,240.

5. LWCU is seeking an increase to its operating revenue of \$79,280 for water service and \$79,280 for wastewater service for a combined revenue increase of \$158,560 under its proposed rates.

The evidence for this finding concerning the amount of the requested rate increase is contained in the application (as amended) by LWCU. LWCU Application, Exhibits B-2 and B-3. The application shows that the level of operating revenues for water service after the proposed increase is \$113,400 for water charges and \$4,274 for DHEC charges for water testing for total operating revenue for water service of \$117,674. The level of operating revenues for wastewater service after the proposed increase is \$113,400 for wastewater charges. The combined operating revenue after the proposed increase is \$231,074.

The testimony and exhibits of ORS witness Roy Barnette show that the level of operating revenues under the rates proposed by LWCU for water service are \$113,400 and for wastewater service are \$113,400, for a combined operating revenue of \$226,800 which reflects ORS's adjustment. As explained above, ORS did not allow the DHEC water testing charges to be included as revenue as those are billed by LWCU to its customers and then passed through to DHEC.

We adopt ORS's calculations of the increase in revenues as ORS's calculation appropriately reflects annualized charges for water and wastewater service without any additional inappropriate charges. ORS's adjustments to annualize the rates recognize revenues for water and wastewater service for a full year under the approved rates. We find that the annualized revenues as calculated by ORS are appropriate to use in establishing rates. Therefore, the Commission finds that LWCU is seeking an increase to its water revenues of \$79,280 and \$79,280 to its wastewater service revenues for a combined increase of \$158,560.

6. The appropriate operating expenses for LWCU for the test year under present rates and after accounting and pro forma adjustments are \$73,606 for water service and \$72,935 for wastewater service for a combined operating expense of \$146,541.

ORS offered certain adjustments affecting operating expenses for the test year. This section addresses the adjustments:

A) Legal Fees #1 [ORS Adjustment #3]

- 1) Position of LWCU: LWCU does not propose an adjustment relating to Legal Fees.
- 2) Position of ORS: ORS proposes to reduce O&M expenses for legal fees associated with this filing and reclassify these amounts to G&A Expenses – Rate Case Expenses in order to comply with recognized accounting procedures. The adjustment reduces O&M Contract Services – Water by (\$323) and Contract Services – Sewer by (\$322). ORS Witness Barnette Prefiled Testimony, P.7, ll. 14-18; Hearing Exhibit No. 7, Audit Exhibit A-1, P. 8.
- 3) Decision of the Commission: The Commission adopts ORS's adjustment reclassifying legal fees from O&M Expenses to G&A Expenses as in conformance with recognized accounting principals and reduces O&M Contract Services – Water by (\$323) and Contract Services – Sewer by (\$322).

B) Legal Fees #2 [ORS Adjustment #4]

- 1) Position of LWCU: LWCU proposes no adjustment to Legal Fees.
- 2) Position of ORS: ORS proposes to increase G&A Expense – Rate Case Expense to reflect a reclassification of legal fees paid during the test year and charged to Contract Service – Water and Contract Service – Sewer in accordance with Adjustment A (ORS

Adjustment #3). ORS Witness Barnette Prefiled Testimony, Pp.7-8; Hearing Exhibit No. 7, Audit Exhibit A-1, P. 9.

- 3) Decision of the Commission: As the Commission has accepted Adjustment A (ORS Adjustment #3), we also find the proposed increase to G&A Expense – Rate Case Expense to be in accordance with regulatory accounting principles; therefore, the Commission adopts the increase of \$645.

C) O&M Expenses – Repairs and Maintenance [ORS Adjustment #5]

- 1) Position of LWCUC: LWCUC proposes no adjustment to O&M Expenses – Repairs and Maintenance.
- 2) Position of ORS: ORS proposes to decrease O&M Expenses – Repairs and Maintenance by a total of (\$1,020). Witness Barnette testified that this adjustment removes invoices paid to J.G. Environmental, Inc. for services performed outside of the test year and reduces the expense in the Water Department by (\$970) and in the Wastewater Department by (\$50). ORS Witness Barnette Prefiled Testimony, P. 8, ll. 3-7; Hearing Exhibit No. 7, Audit Exhibit A-1, P. 8.
- 3) Decision of the Commission: Because ORS found these services were performed outside of the test year and LWCUC offered no further explanation for this expense, we accept the decrease in expenses and reduce O&M Expenses – Repairs and Maintenance by (\$970) for Water and (\$50) for Wastewater.

D) Laboratory Analysis and Bacteriological Sampling [ORS Adjustment #6]

- 1) Position of LWCUC: LWCUC proposes no adjustment for these expenses.
- 2) Position of ORS: ORS proposes to reallocate invoices paid to J. G. Environmental, Inc. for repairs and maintenance to correctly reflect the distribution of these expenses between

the Water and Wastewater Departments. ORS Witness Barnette testified that these invoices were for services rendered in connection with laboratory analysis for wastewater operations and bacteriological sampling and analysis for water operations. During the year, \$6,039 of the laboratory analysis charges for wastewater operations was charged to the water department. Therefore, ORS proposes to reduce expenses in the water department by (\$6,039) and increase expenses in the wastewater department by \$6,039. ORS Witness Barnette Prefiled Testimony, P. 8; Hearing Exhibit No. 7, Audit Exhibit A-1, P. 9.

- 3) Decision of the Commission: The Commission finds ORS's adjustments to O&M expenses appropriate and in accordance with accepted regulatory accounting principles; therefore, we accept the decrease to expenses of the water department of (\$6,039) and the increase to expenses of the wastewater department of \$6,039.

E) Taxes and License Fees #1 [ORS Adjustment #7]

- 1) Position of LWCU: LWCU proposes no adjustment related to amounts paid for Taxes and License Fees.
- 2) Position of ORS: ORS proposes to reclassify amounts paid for Taxes and License Fees on a new 2003 Dodge Ram, purchased in July 2003, from O&M Expenses – Transportation – Water, in the amount of (\$441), and Transportation – Sewer (\$441) to Taxes Other than Income – Water, in the amount of \$441, and Taxes Other Than Income – Sewer, in the amount of \$441. ORS Witness Barnette testified that these expenses included Title Fees of \$10, Sales Tax of \$300, License Plate Transfer Fees of \$13, and York County Property Taxes of \$559 for a total allocation of \$882. ORS Witness Barnette Prefiled Testimony, Pp. 8-9; Hearing Exhibit No. 7, Audit Exhibit A-1, P. 9.

- 3) Decision of the Commission: The Commission finds ORS's reclassification of expenses for Taxes and License Fees appropriate for regulatory purposes. The Commission adopts a decrease in O&M Expenses – Transportation – Water, in the amount of (\$441), and Transportation – Sewer, in the amount of (\$441)

F) Taxes and License Fees #2 [ORS Adjustment #8]

- 1) Position of LWCUC: LWCUC proposes no adjustment for Taxes Other Than Income relating to Taxes and License Fees.
- 2) Position of ORS: ORS proposes to increase Taxes Other Than Income – Water \$441 and Taxes Other Than Income – Sewer \$441 to reflect the reclassification of these expenditures as detailed and discussed in Adjustment E (ORS Adjustment #7), above. ORS Witness Barnette Prefiled Testimony, P. 9, ll. 3-6; Hearing Exhibit No. 7, Audit Exhibit A-1, P. 11.
- 3) Decision of the Commission: For the reasons stated above in Adjustment E (ORS Adjustment #7), the Commission adopts ORS's adjustment to Taxes Other Than Income – Water and Sewer.

G) Chemical Expenses #1 [ORS Adjustment #9]

- 1) Position of LWCUC: LWCUC proposes no adjustment to Chemical Expenses.
- 2) Position of ORS: ORS proposes to increase O&M Expenses – Chemicals – Sewer \$100 by reclassifying Use Taxes paid during the year, to the state of South Carolina, on chemicals purchased out of the state and used in the wastewater treatment process in order to comply with recognized accounting procedures. When these Use Taxes were paid they were charged on the Lake Wylie books to Use Tax – Water \$50 and Use Tax – Sewer \$50. ORS

Witness Barnette Prefiled Testimony, P. 9, ll. 7-13; Hearing Exhibit 7, Audit Exhibit A-1, P. 9.

- 3) Decision of the Commission: The Commission finds these expenses are more properly booked to O&M Expenses – Chemicals – Sewer and adopts ORS's proposal to reclassify these expenses as reasonable and consistent with regulatory accounting guidelines.

H) Chemical Expenses #2 [ORS Adjustment #10]

- 1) Position of LWCU: LWCU proposes no adjustment to Chemical Expenses.
- 2) Position of ORS: ORS proposes to reclassify and therefore reduce Use Taxes paid during the year from Taxes Other Than Income – Use Tax – Water (\$50) and Taxes Other Than Income – Use Tax – Sewer (\$50) and include the total of \$100 in O&M – Chemicals – Sewer as detailed and discussed in Adjustment H (ORS Adjustment #9), above. ORS Witness Barnette Prefiled Testimony, P. 9; Hearing Exhibit 7, Audit Exhibit A-1, P. 11.
- 3) Decision of the Commission: The Commission agrees with the ORS position on reclassification of Chemical Expenses as previously stated in Adjustment G (ORS Adjustment #9) and decreases Taxes Other Than Income – Use Tax – Water by (\$50) and Taxes Other Than Income – Use Tax – Sewer by (\$50).

I) PSC Assessment Fees #1 [ORS Adjustment #11]

- 1) Position of LWCU: LWCU proposes no adjustment for PSC Assessment Fees.
- 2) Position of ORS: ORS proposes to reclassify and therefore increase Taxes Other Than Income – Water \$323 and Sewer \$323 for the LWCU's payment of PSC Assessment Fees in order to comply with recognized accounting procedures. When these fees were paid, LWCU included them in G&A – Regulatory Fees – Water and Regulatory Fees – Sewer.

ORS Witness Barnette Prefiled Testimony, Pp. 9-10; Hearing Exhibit 7, Audit Exhibit A-1, P. 11.

- 3) Decision of the Commission: The Commission finds ORS's adjustment of \$323 for Taxes Other Than Income – Water and \$323 for Taxes Other Than Income – Sewer reasonable for accounting purposes.

J) PSC Assessment Fees #2 [ORS Adjustment #12]

- 1) Position of LWCUC: LWCUC proposes no adjustment for PSC Assessment Fees.
- 2) Position of ORS: ORS proposes to reclassify and therefore reduce G&A Regulatory Fees – Water (\$323) and Regulatory Fees – Sewer (\$323) for LWCUC's payment of PSC Assessment Fees. ORS proposes to include these fees in Taxes Other Than Income as explained in Adjustment I (ORS Adjustment #11). ORS Witness Barnette Prefiled Testimony, P. 10, ll. 3-7; Hearing Exhibit 7, Audit Exhibit A-1, P. 9.
- 3) Decision of the Commission: As explained in Adjustment I (ORS Adjustment #11), the Commission adopts ORS's adjustment to G&A Regulatory Fees of (\$323) for Water and (\$323) for Sewer.

K) NPDES Permit Fees [ORS Adjustment #13]

- 1) Position of LWCUC: LWCUC proposes no adjustment relating to permit fees.
- 2) Position of ORS: ORS Witness Barnette presented testimony that LWCUC paid the fee of \$800 for the National Pollutant Discharge Elimination System ("NPDES") permit but inadvertently charged one-half of the payment to the Water department. ORS proposes to reclassify the payment for the NPDES permit charged to Regulatory Fees – Water, which should have been charged to Regulatory Fees – Sewer. ORS Witness Barnette Direct Testimony P. 10, ll. 8-12; Hearing Exhibit 7, Audit Exhibit A-1, P. 10.

- 3) Decision of the Commission: The Commission adopts the ORS position on NPDES permit fees as appropriate for regulatory purposes and reclassifies the payment from the Regulatory Fees – Water account to the Regulatory Fees – Sewer account.

L) Rate Case Expenses [ORS Adjustment #14]

- 1) Position of LWCUC: LWCUC proposes to adjust for rate case expenses associated with this filing. Per its application, LWCUC proposed \$10,000 to be allowed for rate case expenses to be amortized over a five-year period for a total adjustment of \$2,000. However, LWCUC Witness Malpeli indicated a request for a three-year amortization period. LWCUC Witness Malpeli Rebuttal Testimony P. 4, ll 13-20.
- 2) Position of ORS: ORS proposes to amortize the rate case expenses of \$8,330 over a 5-year period. ORS Witness Barnette Direct Testimony P. 10, ll. 15-17; Hearing Exhibit 7, Audit Exhibit A-1, P. 10. The adjustment is comprised of \$2,225 for expenses for accounting services incurred after the test year and \$6,105 for incurred legal expenses. At the hearing, ORS did not object to LWCUC submitting an updated exhibit detailing rate case expenses which indicates total rate case legal expenses of \$25,727.36 consisting of \$8,584.89 for accounting fees and \$17,142.47 for legal fees. ORS considered time between rate cases as one measure for an amortization period. LWCUC's only rate case proceeding was in 1982 resulting in approximately 22 years between rate cases. However, ORS presented testimony that a twenty two-year amortization period is too long and proposed a more reasonable amortization period of 5 years. ORS Witness Barnette Direct Testimony P. 10-11; Hearing Exhibit 7, Audit Exhibit A-1, P. 14. Using the ORS amortization period of 5 years with the updated rate case expenses from Hearing Exhibit #3, results in an adjustment of \$5,145.47.

- 3) Decision of the Commission: The Commission concludes that the ORS adjustments for rate case expenses are appropriate for the purposes of this Order. The ORS adjustment is based on expenses incurred during the test year and billing invoices detailing accounting and legal fees charged as of the hearing date and updated as Hearing Exhibit #3. The Commission adopts a five-year amortization period as a reasonable period for LWCU to recover these expenses without causing undue hardship on ratepayers. LWCU's position that it will likely seek further rate relief within three years is speculative and is not sufficient legal justification for use of a three year amortization period. While no one can accurately predict when the utility will present another case for a rate increase, the fact that LWCU initially requested a five-year amortization period in its application is evidence that such a period is reasonable. In the event LWCU does request an additional rate increase within five years, the Commission will consider including any unrecovered rate case expenses in future rate increases.

M) Property Taxes [ORS Adjustment #15]

- 1) Position of LWCU: LWCU proposed no adjustment for Property Taxes.
- 2) Position of ORS: ORS proposes to increase Taxes Other Than Income to reflect York County property taxes, in the amount of \$1,592, paid on the facility outside the test year. ORS Witness Barnette testified that ORS allocated the total taxes of \$1,592 to the Water and Wastewater Department based upon each department's percentage of Net Plant to the Total Net Plant (total plant less accumulated depreciation) as reflected on the Balance Sheet included with the application. The Net Plant balances as shown on the Balance Sheet were Water Department \$30,607 and Wastewater Department \$23,077. Total Net Plant as shown at December 31, 2003, is \$53,684. Therefore, the proportion of these taxes to be

allocated to the Water department is \$30,607 divided by \$53,684 or 57% and the amount to be allocated to the Wastewater department is \$23,077 divided by \$53,684 or 43%. The proposed allocation of the taxes to the Water Department is \$1,592 multiplied by 57% or \$908 and the amount allocated to the Wastewater Department is \$1,592 multiplied by 43% or \$684. ORS Witness Barnette Direct Testimony P. 11, ll. 5-17; Hearing Exhibit 7, Audit Exhibit A-1, P. 12.

- 3) Decision of the Commission: The Commission finds ORS's adjustments related to Property Taxes are reasonable and appropriate for regulatory purposes; therefore, the Commission adopts the increase to Taxes Other Than Income – Water of \$908 and Taxes Other Than Income – Sewer of \$684.

N) Drinking Water Fees #1 [ORS Adjustment #16]

- 1) Position of LWCU: LWCU did not propose an adjustment related to Drinking Water Fees.
- 2) Position of ORS: ORS proposes to reclassify one-half of two payments totaling \$2,160 which were paid to DHEC for Drinking Water Fees but were charged to the Wastewater department. ORS Witness Barnette testified that each payment was for \$1,080 all of which should have been charged to the Water department. The adjustment corrects the allocation of the payments by taking one-half of the total payments (\$2,160 divided 2) or \$1,080 and transferring it from the Wastewater department to the Water department. ORS Witness Barnette Prefiled Testimony, Pp. 11-12; Hearing Exhibit 7, Audit Exhibit A-1, P. 10.
- 3) Decision of the Commission: The Commission adopts the ORS position on Drinking Water Fees expenses for LWCU and finds the reallocation of \$1,080 from the Wastewater Department to the Water Department is reasonable.

O) Drinking Water Fees #2 [ORS Adjustment #17]

- 1) Position of LWCUC: LWCUC did not propose an adjustment related to Drinking Water Fees.
- 2) Position of ORS: ORS proposes to remove Drinking Water Fees paid to DHEC and charged to Regulatory Fee – Water, as this fee is a pass through to the customer. During the test year LWCUC made four payments to DHEC in the amount of \$1,079.75 each, for a total adjustment of \$4,319. ORS Witness Barnette Direct Testimony, P. 12, ll. 3-6; Hearing Exhibit 7, Audit Exhibit A-1, P. 10.
- 3) Decision of the Commission: The Commission finds ORS's adjustments and manner in arriving at these adjustments to be reasonable and verifiable. The Commission allows the ORS recommended adjustments to Regulatory Fee – Water expenses of (\$4,319) for removal of Drinking Water Fees charged as a pass through to the customers.

P) Plant in Service [ORS Adjustment #18]

- 1) Position of LWCUC: LWCUC proposes to allocate 40% of the cost of the vehicles owned by LWCUC and Lake Wylie Mobile Home Park to LWCUC. LWCUC also proposes to allocate 40% of the maintenance costs for these vehicles. LWCUC proposes that the depreciation schedule for its existing water plant have a 20-year service life period, the gravity wastewater lines have a 25-year service life period and the wastewater treatment facility have a 20-year service life period.
- 2) Position of ORS: ORS proposes to allocate certain plant in service to the Lake Wylie Mobile Home Community. ORS allocated two vehicles, a pick-up truck and a dump truck, to LWCUC as being used and useful by the utility. The vehicles used in the calculation of depreciation were allocated 50% to the Lake Wylie Mobile Home Community and 50% to

LWCU. ORS Witness Barnette testified this allocation was based upon information provided by Mr. John Malpeli. Furthermore, the 50% which was allocated to LWCU was allocated one-half to the Water Department and one-half to the Wastewater Department as shown on ORS Audit Exhibit A-2. ORS calculated the depreciation on the vehicles using useful lives and rates furnished by ORS Witness Hipp.

ORS also proposes to reduce the Water and Wastewater depreciation expense for plant in service using ORS's recommended depreciation rates. ORS Witness Hipp recommended that the water plant mains and wells, acquired in 1984, be capitalized and depreciated over a 27-year service life period. In addition, the water mains installed in 1992 and 1996 should be capitalized and depreciated over a 38-year service life. ORS proposes that the gravity wastewater lines be capitalized and depreciated over a 40-year average service life period. ORS recommends that the wastewater treatment facility cost be capitalized and depreciated over a 27-year average service life period.

ORS determined that the total depreciation for the vehicles during the test year was \$2,352 and allocated this amount to the Water and Wastewater Departments with each department being allocated \$1,176 to its depreciation expense accounts. ORS Witness Barnette calculated total depreciation for the Wastewater Department, including plant in service and vehicles, of \$4,454. ORS then compared this amount to the booked amount of \$7,408, which resulted in a reduction in depreciation expense for the Wastewater Department of (\$2,954). ORS Witness Barnette calculated total depreciation for the Water Department, including plant in service and vehicles, of \$3,919. ORS then compared this amount to the booked amount of \$7,311, which resulted in a reduction in depreciation expense for the

Water Department of (\$3,392). The resulting reduction in depreciation expense is Wastewater (\$2,954) and Water (\$3,392) for a total reduction of (\$6,346).

- 3) Decision of the Commission: We find that ORS's adjustments are appropriate and adopt them as computed. ORS Witness Hipp testified she based her depreciation recommendations on the conclusions outlined in the Florida Public Service Commission Water and Wastewater System Regulatory Law as recommended by the NARUC staff. NARUC's recommendation to follow the Florida Public Service Commission Water and Wastewater System Regulatory Law for service life is respected by this Commission. We also adopt ORS's allocation of plant in service as appropriate. Additionally, LWCU, in its responses to ORS's Data Requests, stated "There are 5 vehicles owned between LWMHC [Lake Wylie Mobile Home Park] and LWU [LWCU]. LWU [LWCU] owns a dump truck and a pickup truck." Additionally, LWCU Witness Malpeli testified the vehicles owned by LWCU are not used 100% for the benefit of LWCU. Further, LWCU Witness Malpeli testified that he did not provide information on the value of the vehicles owned by the Mobile Home Park. Transcript at P. 52, ll. 24-35. As these expenses are not known and measurable or verifiable for regulatory purposes, the Commission does not allow LWCU's proposed adjustment.

Q) Christmas Gifts [ORS Adjustment #21]

- 1) Position of LWCU: LWCU did not propose an adjustment relating to Christmas Gifts.
- 2) Position of ORS: ORS proposes to reduce G&A Expenses – Office Expense to remove Christmas gifts given to employees as not allowable for regulatory purposes. Lake Wylie Mobile Home Community included in its expenses \$888 for employee Christmas gifts consisting of \$388 for hams and turkeys and \$250 each to Best Buy and Wolf Camera for

gift certificates. Twenty-five (25%), or \$222, of the gift amount was then allocated to LWCU. ORS Witness Barnette Direct Testimony, P. 14, ll. 1-6; Hearing Exhibit 7, Audit Exhibit A-1, P. 10.

- 3) Decision of the Commission: The Commission finds purchasing Christmas gifts for employees is not an allowable expense for regulatory purposes; therefore, the Commission adopts ORS's adjustment.

R) Fuel Costs

- 1) Position of LWCU: In his rebuttal testimony, LWCU Witness Yokum presented testimony that \$2,730.03 for expenses for fuel expenses incurred during the test year by Lake Wylie Mobile Home Park should be included in the test year expenses of LWCU.
- 2) Position of ORS: ORS proposed no adjustment relating to fuel costs.
- 3) Decision of the Commission: On cross examination, LWCU Witness Yokum testified that all of the fuel costs were accounted for on the financial records of the Mobile Home Community. He further testified that the fuel costs were not on the application and verified that ORS auditors had no authority to review the Mobile Home Community's books and did not review those books unless requested by LWCU to review an allocation. Transcript at P. 84-85. As a result, the Commission denies LWCU's proposed adjustment for fuel costs as not known and measurable and not verified for regulatory purposes.

Summary of Adjustments to Test Year Operating Expenses:

The adjustments to test year operating expenses relating to water service adopted herein result in a decrease in Operating and Maintenance ("O&M") Expenses of (\$7,773); a decrease in

General and Administrative (“G&A”) Expenses of (\$1,177); a decrease in Depreciation Expense of (\$3,392); and an increase in Taxes Other Than Income of \$1,622 for a total adjustment of (\$10,720). Adding these adjustments to per books total Operating Expenses for water service of \$84,326 results in Total Operating Expenses As Adjusted of \$73,606.

The adjustments to test year operating expenses relating to wastewater service adopted herein result in an increase in O&M Expenses of \$5,326; an increase in G&A Expenses of \$1,781; a decrease in Depreciation Expense of (\$2,954); and an increase in Taxes Other Than Income of \$1,398 for a total adjustment of \$5,551. Adding these adjustments to per books total Operating Expenses for wastewater service of \$67,384 results in Total Operating Expenses As Adjusted of \$72,935.

The adjustments to test year operating expenses for the combined water and wastewater operations adopted herein result in a decrease in O&M Expenses of (\$2,447); an increase in G&A Expenses of \$604; a decrease in Depreciation Expense of (\$6,346); and an increase in Taxes Other Than Income of \$3,020 for a total adjustment of (\$5,169). Adding these adjustments to per books total Operating Expenses for combined water and wastewater service of \$151,710 results in Total Operating Expenses As Adjusted of \$146,541.

7. The operating margin for water service for the test year under present rates and after accounting and pro forma adjustments approved herein is (115.73%). The operating margin for wastewater service for the test year under present rates and after accounting and pro forma adjustments approved herein is (113.76%). The operating margin for combined water and wastewater service is (114.74%).

The calculation for the operating margin using the test year adjusted operating revenues of \$34,120 for water service and \$34,120 for wastewater service as approved herein and test year

as adjusted operating expenses of \$73,606 for water service and \$72,935 for wastewater service as approved herein was proved by ORS Witness Barnette. Adjusted test year operations result in a “Net Income for Loss” of (\$39,486) for water and (\$38,815) for wastewater. Using the adjusted Net Income for Loss divided by Operating Revenues, ORS calculated an operating margin of (115.73%) for water and (113.76%) for wastewater for a combined Operating Revenue of (114.74%). Hearing Exhibit 7, Audit Exhibits A, A/W and A/S.

The following table indicates (1) LWCU’s gross revenues for the test year after adjustments approved herein under the current rate schedule for water and wastewater operations combined; (2) LWCU’s operating expenses for the test year after accounting and pro forma adjustments and adjustments for known and measurable out-of test year occurrences approved herein for water and wastewater operations combined; and (3) the operating margin under the presently approved schedule for the test year for water and wastewater operations combined:

TABLE A

	<u>Before Increase As Adjusted</u>
Operating Revenues	\$68,240
Operating Expenses	<u>146,541</u>
Net Operating Income/Loss	(78,301)
Add: Customer Growth	0
 NET INCOME/(LOSS) FOR RETURN	 <u>(78,301)</u>
 Operating Margin	 <u>(114.74%)</u>
(Interest Expense For Operating Margin)	<u>\$0</u>

8. Based on the operating margin for the test year after accounting and pro forma adjustments, we find that LWCU has demonstrated a need for an increase in rates. Adjusted test

year operations reveal a combined operating margin of (114.74%). Expenses of operating the system outweigh the revenues of the system.

9. When applied to as adjusted test year operations, the rates requested and proposed by LWCUC result in an operating margin of 27.03%. Information concerning the effect of the proposed rates when applied to as adjusted test year operations of LWCUC is found in ORS exhibits introduced during the hearing. ORS Witness Barnette determined that the rates proposed by LWCUC would produce additional revenues of \$158,560 which result in an operating margin of 27.03%. Hearing Exhibit 7, Audit Exhibit A.

10. The Commission finds that an operating margin of 10.00% is just and reasonable and results in just and reasonable rates to charge for the services offered by LWCUC.

S.C. Code §58-5-240(H) provides “The commission's determination of a fair rate of return must be documented fully in its findings of fact and based exclusively on reliable, probative, and substantial evidence on the whole record. The commission shall specify an allowable operating margin in all water and wastewater orders.” LWCUC did not propose an operating margin in its application or through testimony presented by its witnesses and did not present evidence supporting a reasonable operating margin.

ORS Witness Hipp presented the only evidence in the record before this Commission concerning a reasonable operating margin. Witness Hipp testified ORS suggested operating margins of 10-15% “is a more prudent balance between the consumer’s need for affordable, quality services and LWCUC’s financial health.” ORS Witness Hipp Direct Testimony P. 10, 11, 11-12.

LWCUC Witness Malpeli presented testimony that the rates recommended by ORS “would only begin to address the historical losses suffered by the Company.” LWCUC Witness Malpeli,

Rebuttal Testimony, P. 3, l. 13. However, LWCU did not propose an operating margin that would provide adequate revenues prospectively.

LWCU Witness Malpeli testified at the hearing that the income from the Mobile Home Community had been used to pay the expenses of LWCU and to offset its losses. Transcript at Pp. 49-50. Even if establishing rates based on historical losses was appropriate, the Commission finds LWCU has not suffered a financial hardship in that the Mobile Home Community has supplemented its revenues through increases in customers' rent.

Regardless, establishing rates with the intent to recover past losses is considered improper retroactive ratemaking. "Generally, retroactive rate making occurs when a utility is permitted to recover an additional charge for past losses, or when a utility is required to refund revenues collected pursuant to its lawfully established rates." *South Central Bell Tele. Co. v. Louisiana Pub. Serv. Comm'n*, 594 So.2d 357, 359 (La.1992). "A utility is entitled only to the opportunity to earn a reasonable return on its investment; the law does not insure that it will in fact earn the particular rate of return authorized by the Commission or indeed that it will earn any net revenues." *Id.* at 359. Just as the Commission cannot require a utility to refund an over-collection of revenues to its customers, it cannot set rates to recover past losses of the company. It is the responsibility of the utility to pursue rate increases to adequately recover an acceptable operating margin.

LWCU Witness Malpeli also testified that recently LWCU was required to replace a pump and a well motor which would further add to LWCU's expenses. Mr. Malpeli further suggested the Commission consider these factors when setting an appropriate operating margin. LWCU Witness Malpeli Rebuttal Testimony, P. 4, ll. 7-9. The Commission does not consider the expenses incurred by LWCU to replace the pump and well motor appropriate for rate setting

purposes. As evidenced by ORS Witness Barnette, these expenses occurred outside of the test year and have not been verified or substantiated as known and measurable. Further, ORS Witness Barnette testified these items should be covered by depreciation expenses as these items are substantial in value and will extend the life of the asset; therefore, the asset should be capitalized. Transcript at P. 167, lines 1-14.

The Commission, therefore, finds the rates proposed by LWCU, and the resulting operating margin, have not been substantiated by the record in this case. The Commission authorizes an operating margin for combined water and wastewater operations of 10.00%. While this will result in a 140% increase in the rates charged, the Commission finds this operating margin is necessary to provide LWCU sufficient revenue to remain financially viable and adequately serve its customers.

11. The level of operating revenues required in order for LWCU to have an opportunity to earn a 10.00% operating margin is found to be \$168,140. The increased operating expenses for LWCU after adjustments relating to the authorized increase in operating revenues is \$151,322. This section addresses the adjustments:

A) Service Revenues [ORS Adjustment #19]

- 1) Position of LWCU: LWCU proposed to adjust service revenues relating to its proposed increase in the amount of \$79,280 for water service and \$79,280 for wastewater service for a combined service revenue increase of \$158,560. ORS Witness Barnette Direct Testimony, P. 13, ll. 12-14; Hearing Exhibit 7, Audit Exhibit A-1, P. 12.
- 2) Position of ORS: Based on the rates proposed by LWCU, ORS calculated proposed service revenue adjustment amounts of \$79,280 for Water and \$79,280 for Wastewater,

resulting in a total combined service revenue increase of \$158,560. ORS Witness Barnette Direct Testimony, P. 12, ll. 3-6; Hearing Exhibit 7, Audit Exhibit A-1, P. 10. Hearing Exhibit 6, Exhibit DMH-6.

- 3) Decision of the Commission: Based on the herein approved operating margin of 10.00%, the Commission finds an adjustment to service revenues relating to the authorized increase in the amount of \$49,950 for water service and \$49,950 for wastewater service for a combined amount of \$99,900 is appropriate and reasonable.

B) Gross Receipts Taxes [ORS Adjustment #20]

- 1) Position of LWCUC: LWCUC did not propose an adjustment relating to Gross Receipts Taxes.
- 2) Position of ORS: ORS proposes to reflect the gross receipts taxes associated with the increase in rates proposed by LWCUC. ORS Witness Barnette testified the gross receipts factor includes cost for administration, the Public Service Commission and the Office of Regulatory Staff. The ORS adjustment is computed using the ORS Proposed Increase Revenues of \$158,560 multiplied by the gross receipts factor of \$0.007733226 resulting in an amount of \$1,226. This amount is allocated to the Water and Wastewater Departments with each bearing \$613 of this expense in Taxes Other Than Income. ORS Witness Barnette Direct Testimony, P. 13, ll. 15-21; Hearing Exhibit 7, Audit Exhibit A-1, P. 12.
- 3) Decision of the Commission: Based on the herein approved operating margin of 10.00%, the Commission adopts the adjustment to operating revenues relating to the gross receipts tax in the amount of \$386 for the Water Department and \$386 for the Wastewater Department for a combined amount of \$772 as allowable for ratemaking purposes. This

adjustment is calculated using the gross receipts factor of \$0.007733226 as supplied by ORS Witness Barnette and applying that factor to the increase in rates approved herein.

C) Income Taxes [ORS Adjustment #22]

- 1) Position of LWCUC: LWCUC did not propose an adjustment for Income Taxes associated with the Proposed Increase.
- 2) Position of ORS: ORS proposes to adjust for income taxes associated with revenues after the increase proposed by LWCUC. The total income taxes of \$19,028 were allocated to the Water and Wastewater departments based upon their net income before income taxes, Water \$40,921 or 49.59% (\$19,028 multiplied by 49.59% = \$9,436) and Wastewater \$41,592 or 50.41% (\$19,028 multiplied by 50.41% = \$9,592). ORS Witness Barnette Direct Testimony, P. 14, ll. 7-12; Hearing Exhibit 7, Audit Exhibit A-1, P. 13.
- 3) Decision of the Commission: Considering the Commission has approved a 10.00% operating margin, the Commission allows the adjustment to operating expenses for income taxes in the amount of \$1,940 for the Water Department and \$2,069 and a combined amount of \$4,009. The Commission adopted the methodology proposed by ORS Witness Barnette in calculating the appropriate income tax. Hearing Exhibit 7, Audit Exhibit A-3.

The following table indicates (1) LWCUC's gross revenues for the test year after adjustments approved herein, under the authorized rate schedule for combined water and wastewater operations; (2) LWCUC's operating expenses for the test year after accounting and pro forma adjustments approved herein for combined water and wastewater operations; and (3) the

operating margin under the authorized rate schedule for combined water and wastewater operations:

TABLE B

	<u>After Increase</u>
Operating Revenues	\$168,140
Operating Expenses	<u>\$151,322</u>
Net Operating Income/Loss	\$16,818
Add: Customer Growth	0
 NET INCOME/(LOSS) FOR RETURN	 \$16,818
 Operating Margin	 <u>10.00%</u>
(Interest Expense For Operating Margin)	<u>\$0</u>

12. In order to meet the income requirement for the opportunity to earn an operating margin of 10.00%, LWCUC will require additional revenues of \$99,900.

13. The Commission finds that the proposed reconnection fee and administration fee should be approved.

In its application, LWCUC asserted the reconnection fee was to reimburse the Company for all costs, including labor and materials, associated with re-establishing service after disconnect for non-payment, failure to make a deposit, or fraudulent or illegal use. LWCUC Application, Exhibit A, Pp. 1-2. LWCUC Witness Malpeli testified the reconnection fee was to cover the costs of notifying the customer of pending disconnection and of disconnecting and reconnecting service. LWCUC Witness Malpeli Direct Testimony Pp. 7-8. The Application also provided the administration fee is to cover the administrative cost of re-establishing service upon a change of customer where service has previously been established. LWCUC Application, Exhibit A, Pp. 1-2. LWCUC Witness Malpeli also testified this fee is to offset the substantial time

in inputting customer information and setting up a customer account incurred by LWCU office personnel. LWCU Witness Malpeli Direct Testimony P. 8. As a result, the Commission finds the proposed reconnection fee of \$150 for water and wastewater service and \$45 for administrative fees for water and wastewater service is appropriate.

14. The current performance bond of LWCU is insufficient and does not meet the requirements of S.C. Code Ann. Section 58-5-720 (Supp. 2004).

S.C. Code Ann. Section 58-5-720 was amended in May 2000 and increased the required amounts of performance bonds to a minimum of \$100,000 and a maximum of \$350,000. Thereafter, the Commission's regulations were amended to provide for determining the amount of bond required by each utility. 26 S.C. Code Regs. 103-512.3.1 (Supp. 2004) was amended to provide that the amount of the bond should be based on the total amount of certain expense categories.

ORS witness Hipp provided testimony concerning the performance bond filed by LWCU. According to witness Hipp, LWCU has on file a performance bond with a face amount of \$40,000 to provide \$20,000 of financial assurance for both the water and wastewater utility operations. The performance bond is secured by a personal Statement of Financial Condition as surety dated March 31, 2004 of Mr. John C. Malpeli, President of LWCU. Witness Hipp opined that the performance bond is insufficient because it does not meet the statutory minimum required for the performance bond. Further, Ms. Hipp testified that the personal surety which indicates assets of \$658,165 filed to support the performance bond is sufficient to meet a required bond of \$100,000 for water operations and \$100,000 for wastewater operation pursuant to 26 S.C. Code Regs. 103-512.3.2 and 103-712.3. ORS Witness Hipp Direct Testimony Pp. 5-7; Hearing Exhibit 6, Exhibit DMH-2.

Upon review of this issue, we find that LWCU's bond does not meet the statutory requirements of S.C. Code Ann. Section 58-5-720 (Supp. 2004). The statute requires a minimum bond of \$100,000 up to a maximum of \$350,000. Therefore, based upon the test year expenses as calculated by ORS witness Hipp, the Commission finds that LWCU should file a performance bond in the amount of \$100,000 for the water operations and \$100,000 for the wastewater operations.

15. The Commission finds that LWCU should maintain its books and records in accordance with the NARUC Uniform System of Accounts for Class C Wastewater Utilities, as adopted by this Commission.

LWCU Witness Yokum agreed to maintain LWCU's books and records under the NARUC Uniform System of Accounts. Transcript at Pp. 91-92. The Commission's rules and regulations require water and wastewater utilities to use the NARUC Uniform System of Accounts. Keeping books and records in compliance with NARUC's Uniform System of Accounts will not only ensure compliance with 26 S.C. Code Regs. 103-517 and 103-719 but will also make regulatory audits easier and less burdensome.

CONCLUSIONS OF LAW

Based upon the Findings of Fact as contained herein and the record of this proceeding, the Commission makes the following Conclusions of Law:

1. LWCU is a public utility as defined in S.C. Code Ann. § 58-5-10(3) (Supp. 2004) and as such is subject to the jurisdiction of this Commission.
2. The appropriate test year on which to set rates for LWCU is the twelve month period ending December 31, 2003.

3. Based on the information provided by the parties, the Commission concludes the appropriate rate setting methodology to use as a guide in determining the lawfulness of LWCU's proposed rates and for the fixing of just and reasonable rates is operating margin.

4. For the test year of December 31, 2003, the appropriate operating revenues for combined water and wastewater service, under present rates and as adjusted in this Order, are \$68,240, and the appropriate operating expenses for combined water and wastewater service, under present rates and as adjusted in this Order, are \$146,541.

5. We conclude that LWCU has demonstrated a need for a rate increase as operating expenses outweigh operating revenues. However, we cannot conclude that LWCU has demonstrated the need for the rates requested in its application as LWCU has not provided any evidence as to the reasonableness of those rates. The only evidence as to a reasonable and allowable operating margin was provided by ORS Witness Hipp. We conclude that an operating margin of 10.00% is fair and reasonable and results in rates which are just and reasonable.

6. In order for LWCU to have the opportunity to earn the 10.00% operating margin found fair and reasonable herein, LWCU must be allowed additional revenues of \$99,900.

7. The proposed reconnection fee and administrative fee are based on costs that are known and measurable.

8. The rates as set forth in the attached Appendix 1 are approved for use by LWCU and are designed to be just and reasonable without undue discrimination and are also designed to meet the revenue requirements of LWCU.

9. Based upon the requirements of S.C. Code Ann. Section 58-5-720 (Supp. 2004) and 26 S.C. Regs. 103-512.3.1 and 103-712.3.1 (Supp. 2004), LWCU shall post a performance bond of \$100,000 for the water service and \$100,000 for the wastewater service. The

performance bond shall be in a form as allowed by S.C. Code Ann. Section 58-5-720 and 26 S.C. Code Regs. 103-512.3 through 103-512.3.3 (Supp. 2004).

IT IS THEREFORE ORDERED THAT:

1. LWCU is granted an operating margin for its wastewater service of 10.00%
2. The schedule of rates and charges attached hereto as Appendix A are hereby approved for service rendered on or after the date of this Order. Further, the schedule is deemed filed with the Commission pursuant to S.C. Code Ann. Section 58-5-240 (Supp. 2004).
3. Should the schedules approved herein not be placed into effect within three months of this Order, LWCU shall require written approval from this Commission to place the rates into effect.
4. LWCU shall maintain its books and records in accordance with the NARUC Uniform System of Accounts as adopted by this Commission.
5. Pursuant to and consistent with S.C. Code Ann. Section 58-5-720 and 26 S.C. Code Regs. 103-512.3.1 and 103-712.3.1 (Supp. 2004), LWCU shall post a performance bond with a face value of \$100,000 for water service and \$100,000 for wastewater service.
6. This Order shall remain in full force and effect until further Order of the Commission.

Randy Mitchell, Chairman

ATTEST:

O'Neil Hamilton, Vice Chairman

APPENDIX A

Schedule of Rates and Charges

Lake Wylie Community Utilities, Inc. ("LWCU")
1295 State Line Road
Clover, SC 29710
803/831-7000 (telephone)
803/831-9977 (fax)

Order No. _____
Docket No. 2004-353-WS

All rates and charges presented herein are reflected in the format requested in the Application.

A) Schedule of Rates for Water and Sewer Service

Rate

Monthly Service Charge for Water:

Residential \$25.00

Recovery of DHEC Fees \$1.25

1) Fee to allow LWCU to recover fees it pays SC DHEC for water testing. This charge is passed through to customers on a *pro rata* basis without markup.

Monthly Service Charge for Sewer:

Residential \$25.00

B) Schedule of Rates for Other Charges

Rate

Tap Fee for Water or Sewer Service \$250.00

Re-Connection Fee \$150.00

1) This charge is to reimburse LWCU for all costs, including labor and materials, associated with re-establishing service after disconnect for non-payment, failure to make a deposit, or fraudulent/illegal use.

Administrative Fee \$45.00

1) This charge is to cover the administrative cost of re-establishing service upon a change of customer where service has previously been established.

Deposit, Late Penalty Charge, NSF Check Charge

1) LWCU may charge the above deposit, penalty or charge up to the maximum amount allowed by applicable SC Statute and/or SC Public Service Commission regulation.

Schedule of Rates and Charges
Lake Wylie Community Utilities, Inc. ("LWCU")
1295 State Line Road
Clover, SC 29710
803/831-7000 (telephone)
803/831-9977 (fax)

Order No. _____
Docket No. 2004-353-WS

C) Toxic and Pretreatment Effluent Guidelines

The Company will not accept or treat any substance or material that has been defined by the United States Environmental Protection Agency ("EPA") or the South Carolina Department of Health and Environmental Control ("DHEC") as a toxic pollutant, hazardous waste, or hazardous substance, including pollutants falling within the provisions of 40 CFR §129.4 and §401.15. Additionally, pollutants or pollutant properties subject to 40 CFR §403.5 and §403.6 are to be processed according to the pretreatment standards applicable to such pollutants or pollutant properties, and such standards constitute the Company's minimum pretreatment standards. Any person or entity introducing any such prohibited or untreated materials into the Company's sewer system may have service interrupted without notice until such discharges cease, and shall be liable to the Company for all damages and costs, including reasonable attorney's fees, incurred by the Company as a result thereof.